

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION

BLUE CROSS AND BLUE SHIELD OF MICHIGAN

Employer

and

CASE 7-RC-21586

LOCAL 58, INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, AFL-CIO

Petitioner

APPEARANCES:

Theodore R. Opperswall, Attorney, of Birmingham, Michigan for the Employer.
John G. Adam, Attorney, of Southfield, Michigan for the Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under the Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,¹ the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purpose of the Act to assert jurisdiction herein.

¹ The Petitioner and Employer filed briefs, which have been carefully considered.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(1) and Sections 2(6) and (7) of the Act.

The Employer is a Michigan non-profit corporation engaged in business as a health care provider at various facilities within the State of Michigan. The Petitioner seeks to represent a unit of 13 data-electrical technicians (“DET’s”), including 5 employed at or out of the Employer’s Southfield, Michigan “Complex” (Metro Complex), and 8 at the Employer’s complex located in Detroit, Michigan.² The Employer maintains that the smallest appropriate unit must include approximately 69 additional employees within 5 other employee classifications located at various facilities throughout the State of Michigan, including 15 facility service workers, 6 landscape technicians, 12 maintenance technicians, 9 construction technicians, and 27 building systems technicians.³ The Employer’s proposed unit includes all 82 hourly, non-exempt employees within the Employer’s Facilities Management Department, charged with the maintenance of the Employer’s 39 state-wide facilities.⁴

The petitioned-for Southfield complex DET’s are charged with the maintenance of the Employer’s data communication systems at its various locations within the metropolitan Detroit area, outside the City of Detroit. Many of the DET’s are journeymen electricians, but the record indicates that their work directly involves data communications systems, and related electrical systems of the buildings.

² The Petitioner originally petitioned only for the Southfield DET’s. Subsequent to the hearing, in its brief, the Petitioner agreed to include all of the DET’s in its unit, as urged by the Employer.

³ The parties agree that the various classifications currently represented by labor organizations not involved in the instant matter, should be excluded from any unit found appropriate herein. The Employer characterizes the represented classifications as being “production” (office) type workers in a “state-wide” unit. However, it appears, based on the current collective bargaining agreement covering said classifications that one collective bargaining agreement covering all such classifications is negotiated on a state-wide basis by the Employer and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO (UAW) and its various locals, but that the single contract covers separate bargaining units. About 50% of the Employer’s approximately 6,750 statewide employees are covered by this collective bargaining agreement.

⁴ These buildings include four facilities within the City of Detroit and three buildings in Southfield.

All of the Southfield DET's are immediately supervised by Data/Electric Supervisor Murray Bainbridge,⁵ who in turn reports to Electrical Supervisor Ron Beaudoin. Beaudoin administratively reports to Detroit Region Property Manager Louis Landau, who, in turn, reports to the Employer's Facilities Management Department Director Chris Maier. The Southfield DET's all report to the Southfield complex, except for DET Jeff Grant who reports to Bainbridge in Southfield, but is based in Lansing and performs much of his work in that area. Bainbridge and Maier are housed in Southfield, while Beaudoin and Landau have offices in the Employer's office tower in the City of Detroit. Thus, while the Southfield DET's and their immediate supervisor are housed at the Southfield complex, they administratively report through the Employer's Facilities Management Department, headquartered in the Detroit office tower.⁶

Eight additional DET's are employed at the Employer's Detroit offices. Five of these DET's report to Data/Electric Supervisor J. Konopka, Detroit's counterpart to Southfield supervisor Bainbridge, who administratively reports to the aforementioned Electrical Supervisor Ron Beaudoin. Three additional Detroit DET's directly report to Beaudoin. The DET's who report to Konopka perform similar duties to the petitioned-for Southfield DET's, generally on telecommunications equipment and some related electrical chores. The DET's who directly report to Beaudoin also undertake some telecommunications tasks, but with emphasis on the electrical portions of the work. All eight of these DET's work in Detroit and are immediately supervised there. As noted, the Employer seeks the inclusion of these eight Detroit DET's, and the Petitioner now agrees that the Detroit DET's should be included in its petitioned-for unit. All of the DET's are administratively grouped within the Employer's Facilities Engineering and Management group.

The Employer also seeks the inclusion of 15 facility service workers. Ten of the facility service workers are employed at the Employer's downtown Detroit facilities, directly reporting to either the parking or night supervisor, four are employed at the Employer's Southfield facilities, directly reporting to General Services Coordinator Tom Morris, and one is employed in Lansing. The facility service worker position is not highly skilled, and the position involves duties in respect to the upkeep and operation of the Employer's parking lots and structures. Thus, most facility service workers are parking lot attendants, operating parking gates, and sweeping parking lots, at the Employer's five parking structures and lots in Detroit, and six parking structures and lots in Southfield.

⁵ Mike Szypa, however, listed in the Employer's records as a building systems technician, but identified on the record as a DET, reports to Southfield Technical Services Coordinator Tim Dooling. Both parties would include Szypa in the appropriate unit.

⁶ The Employer divides its 39 state-wide facilities into a Detroit region, which includes only the City of Detroit; a Metro region, which includes the Detroit metropolitan area outside of the City of Detroit; and the outstate region, which includes all facilities outside of the metropolitan Detroit area. There are four buildings in the City of Detroit, and seven in the Southfield area.

Additionally, the Employer seeks the inclusion of the two Detroit, two Southfield, and two South Lyon landscape technicians, directly supervised by Landscape Service Coordinator Gene Reetz. These employees are charged with various duties associated with the upkeep of the grounds at the Employer's various facilities. Duties include snow removal, lawn cutting, planting trees, etc.

The Employer also argues for the inclusion of 12 maintenance technicians, including 4 at Detroit, 2 at Southfield, 4 at Lansing, and 1 each at South Lyon and Saginaw. Maintenance technicians make regular rounds through the Employer's facilities, engaging in a variety of routine maintenance tasks, including servicing bathroom fixtures and repairing toilets, changing light bulbs, repairing walls, and performing other routine maintenance as observed during their daily rounds. The Employer considers the maintenance technician position to require a medium level of skill.

The Employer further maintains that nine construction technicians, including seven at Southfield, and one each at Detroit and Lansing, should be included in the unit. Construction technicians are involved in minor modular furniture installation, and relocation, carpentry, minor wall construction and repair, wallpapering, painting, and general construction. Some, but not a majority, of a construction technician's daily duties include activities typical of a carpenter.

Finally, the Employer argues for the inclusion of 27 building systems technicians, including 8 at Southfield, 9 at Detroit, 2 at Grand Rapids, 5 at Lansing, 1 at South Lyon, 1 at Saginaw, and 1 at Flint. Building systems technicians possess and utilize a variety of specialized skills. Duties include HVAC system repair, direct digital programming of controls which operate building mechanical systems, general building system troubleshooting such as vacuum pumps and heat pumps, and improving the efficiency of building systems including, for example, system water conservation. Some electrical skill may be required and utilized by the building system technicians in carrying out these duties, but only one building systems technician, Keith Foote, maintains an electrical certification status, while either seven or eight of the DET's maintain electrical journeyman status. Other DET's possess a certification from "BICSI," dealing with cabling and communications skills.

Work is assigned on a daily basis to the various classifications either by immediate supervision, or via the Employer's "Servlog" computer and/or telephone work request system, whereby various departments request that certain work be performed. On large projects, workers from the more skilled classifications such as the DET's or building system technicians may be assigned to mixed crews. For example, as part of a recent relocation project in Grand Rapids, a supervisor coordinator from the Employer's Facilities Planning Department determined the manpower needs for the project, scheduled the timing, and coordinated the progress of the work among the classifications. Thus, building system technicians worked on installing and zoning HVAC systems, construction technicians demolished and rebuilt walls and furnishings and performed similar construction duties, and the DET's laid and routed

electrical and data communications cable around and through the walls and furnishings. While each trade or classification performed work specific to that classification or trade, and there is little evidence of overlap of such work, there still is a fair amount of functional integration in the sense that, for example, a DET lays cable through modular furniture constructed by a construction technician. While projects of this sort are an occasional rather than regular occurrence, they do sometimes require a worker to travel to the project location for a period of days or weeks. In the Detroit and Southfield areas there is little, if any, cross-classifications work.

The Employer utilizes a central human resources department in Detroit which handles state-wide human resource issues for all employee classifications, and regional human resource offices in Southfield and Lansing, which deal with such issues on a regional basis. A single employee policy manual applies to all employees state-wide, and all of the at-issue classifications fall under the Employer's central wage rate scale, being classified as either a salary grade "FA" (facility service worker, landscape technician and maintenance technician), or grade "FB" (DET, construction technician, and building systems technician). The FA grades range from a yearly salary of \$17,500 to \$35,500, and the FB grades range from \$25,500 to \$51,000. All of the at-issue classifications share the same fringe benefits, and working hours are the same across the classifications. Pay raises are, to an extent, based upon the recommendations of immediate supervision, within the context of a merit budget set by departmental management.

The principle that the Act requires only that a unit be appropriate, and not necessarily be the most appropriate, is well established. *Overnite Transportation Co.*, 322 NLRB 723 (1996); *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950), *enfd.* 190 F.2d 576 (7th Cir. 1951). A union is not required to seek representation in the most comprehensive grouping for employees unless "an appropriate unit compatible with that requested does not exist." *P. Ballantine & Sons, Inc.*, 141 NLRB 1103 (1963). A single facility unit is presumptively appropriate. *Marks Oxygen Co.*, 147 NLRB 228, 230 (1964). However, where the employees at the single facility have been integrated into a larger unit, with evidence of interchange, transfer, and central management, only a more comprehensive unit may be appropriate. *Kendall Co.*, 184 NLRB 847 (1970). The desire of a petitioner as to the appropriate unit is to be considered, but is not controlling. *Lundy Packing Co.*, 314 NLRB 1042 (1994).

In the instant case, several factors favor the appropriateness of the department-wide, state-wide, unit favored by the Employer. Thus, all of the at-issue workers are employed within the Facilities Management Department, the Employer maintains a central Human Resources Department and manual, the employees are covered by the same wage grade schedule and share the same fringe benefit choices, the Employer negotiates with another union as to a different unit on a state-wide basis, and on some occasions the DET's work on the same crews as certain of the other classifications.

However, it is also clear from the record that the DET's possess and exercise unique skills within the Employer's organization. Thus, unlike the case with the other classifications, the DET's maintain specialized electrical/cable skills, including, for many, journeyman status. There is no evidence that any of the other classifications work on the Employer's data communications system, or that even when part of a mixed crew, the DET's perform work other than on the data communications systems, and its electrical components. While some of the building systems technicians possess electrical skills, although generally not of the level of the DET's, they are utilized when repairing or maintaining various HVAC or other building systems, not on the data communications systems.

In *Burns & Roe Services Corp.*, 313 NLRB 1307 (1994), under similar circumstances, the Board concluded that the electrical group employees constituted an appropriate unit, separate from the mechanical and maintenance employees, even where the employer did not have a formal apprenticeship program, nor conduct extensive on-the-job training. In *Burns and Roe*, and herein, other classifications occasionally perform electrical work and electrical workers are sometimes assigned projects as part of a team which included other classifications. In both *Burns and Roe*, and herein, even when assigned as part of a team, the employees principally undertake work exclusive to their classification.

Under the above circumstances, including the exercise of specialized skills to work on tasks and assignments not performed by other employees, the lack of overlap of duties, the separate immediate supervision from most of the other classifications, and the lack of evidence that there is substantive cross-training or that non-DET employees regularly or routinely perform similar work to the DET's, I conclude that the DET's are a distinct unit of journeymen, apprentices, and helpers who are primarily engaged in tasks not performed by others and, thus, constitute an appropriate craft unit. See *Schaus Roofing*, 323 NLRB 781 (1997).

5. In accordance with the above findings, and the record as a whole, I conclude that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, and I shall direct an election therein:⁷

All full-time and regular part-time data electrical technicians employed by the Employer at its Detroit and Southfield, Michigan⁸ locations, but excluding facilities service workers, landscape technicians, maintenance technicians, construction technicians, building systems technicians, office clerical employees, guards and supervisors as defined in the Act, and all other employees.

⁷ Although the unit found appropriate herein is larger than initially petitioned-for, I am administratively satisfied that Petitioner's showing of interest is sufficient for an election.

⁸ DET Jeff Grant, who lives and works in Lansing, but is headquartered and reports to Southfield, is eligible to vote inasmuch as both parties agree that he should be included in the unit.

Those eligible shall vote whether they desire to be represented for purposes of collective bargaining by the Petitioner.

Dated at Detroit, Michigan this 15th day of July, 1999.

(SEAL)

/s/ William C. Schaub, Jr.
William C. Schaub, Jr., Regional Director
Region Seven
National Labor Relations Board
Patrick V. McNamara Federal Building
477 Michigan Avenue – Room 300
Detroit, Michigan 48226-2569

420-6260
440-1760-9133
440-1760-9133-2900
440-1760-9133-5700
440-1760-9167-2433